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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,631	02/04/2005	Petra Rejc	707-19	6059
23117	7590	07/24/2008	EXAMINER	
NIXON & VANDERHYE, PC			BRADFORD, CANDACE L	
901 NORTH GLEBE ROAD, 11TH FLOOR				
ARLINGTON, VA 22203			ART UNIT	PAPER NUMBER
			3634	
			MAIL DATE	DELIVERY MODE
			07/24/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/523,631	REJC, PETRA	
	<b>Examiner</b>	<b>Art Unit</b>	
	CANDACE L. BRADFORD	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 April 2008.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 and 10-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

In view of the Appeal Brief filed on 4/29/08, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art Unit 3634.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses an industrial gate with a gate body covering a gateway and having on either side a strap hinge 20, with a multiplicity of hinge members 22, that are interconnected such that they may be oriented at a relative angle, which are guided by rollers 26, in lateral guides 2', guiding said gate body free of contact, wherein said gate body includes a multiplicity of stiffening profile members 14, and a flexible hanging 38, 40, wherein each stiffening profile member extends transversely to the lateral guides across said gate body and connects two respective associated hinge members, and wherein said flexible hanging substantially covers a full surface of one side of said gate body while extending across stiffening profile members and being affixed at each stiffening profile member.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said flexible hanging 38, 40 is subdivided into several hanging segments, as best seen in Figure 1.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said flexible hanging 38, 40 is affixed across an entire width of the gate at a respective adjacent stiffening profile member 14.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said

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flexible hanging 38, 40 is affixed at said respective adjacent stiffening profile member 14, in positive engagement.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein ends of each stiffening profile member 14, engage in said hinge members 22, so as to be accommodated therein when viewed in a direction of depth of said gate body, with sides thereof facing said flexible hanging substantially being flush with surfaces of said hinge members.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein in a closed condition of said gate body there are a hinge plane and a hanging plane, wherein said hinge plane is substantially defined by pivot axes, as best seen in Figure 2 of said hinge members 22, that are interconnected such that they may be oriented at a relative angle, and said hanging plane is substantially defined by an extension of a major surface of said flexible hanging 38, 40, with said hinge plane and said hanging plane not coinciding.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 10, characterized in that said hinge plane and said hanging plane are arranged in immediate vicinity of each other, as best seen in Figure 2.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses a reinforcing strip in accordance with Claim 1, characterized

in that said flexible hanging 40, is affixed to said stiffening profile members 14, in respective locations adjacent a pivot axis of said hinge members 22, that are interconnected such that they may be oriented at a relative angle.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with claim 1, Aquilina teaches the utility of a flexible hanging 50, includes in a range of each stiffening profile member 18, a reinforcing strip 22, that engages in an undercut groove at said associated stiffening profile member. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with Claim 5, Aquilina teaches the utility of the industrial gate wherein in portions of said gate body in which said flexible hanging 50, extends across a stiffening profile member 18, as best seen in Figure 3A, the reinforcing strip

22, is welded to said flexible hanging, as best seen in Figure 3. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with Claim 5, Aquilina teaches the utility of the industrial gate, wherein one respective reinforcing strip 22, is formed on edge sides of said flexible hanging 50, or of each hanging segment thereof, respectively, which runs in parallel with said associated stiffening profile member 18. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/  
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Candace L. Bradford  
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July 2, 2008